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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: ALLEN et al. Group Art Unit: 1632  
Serial No.: 09/815,825 Examiner: Pappu, Sita S.  
Filed: March 22, 2001 Attorney Dkt.: R-849  
For: TRANSGENIC MICE CONTAINING cGMP PHOSPHODIESTERASE  
GENE DISRUPTIONS

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**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action mailed December 28, 2001, concerning the Examiner's restriction to the claims, Applicants hereby provisionally elect, with traverse, Invention III (claims 8-11, 12, 17-26, 28-36, and 42-47), drawn to a non-human transgenic animal, a transgenic mouse with an eye abnormality and a method of identifying an agent that ameliorates an eye abnormality, a transgenic mouse with hyperactive behavior and a method of identifying an agent that modulates hyperactive behavior, and methods of producing the transgenic mouse.

In the restriction, the Examiner asserts that claims 1-48 are drawn to six distinct subjects, grouped as Invention I (claims 1-4) drawn to a targeting construct, and a method of producing a targeting construct; Invention II (claims 5-7) drawn to an embryonic stem cell; Invention III (claims 8-11, 12, 17-26, 28-36, and 42-47), drawn to a non-human transgenic animal, a transgenic mouse with an eye abnormality and a method of identifying an agent that ameliorates an eye abnormality, a transgenic mouse with hyperactive behavior and a method of identifying an agent that modulates hyperactive behavior, and methods of producing the transgenic mouse; Invention IV (claims 13-15, 27, and 37-40) drawn to a method of identifying an agent that modulates the expression of cGMP phosphodiesterase gene using a transgenic animal cell comprising a disruption in a cGMP phosphodiesterase gene, and wherein the phenotype associated with the

gene is an eye abnormality; Invention V (claims 16 and 41) drawn to an agent that modulates eye abnormality of a transgenic mouse; and Invention VI (claim 48) drawn to an agent that modulates hyperactive behavior of a transgenic mouse. Applicants respectfully request reconsideration and withdrawal of the requirement.

Specifically, the Examiner asserts that the claims of Invention I are materially different from the claims of Invention II. The Applicants disagree with the Examiner's conclusion in that the targeting construct of claims 1-4 and the embryonic stem cells of claims 5-7 comprising a disruption are related inventions and would not require a separate search or examination that would seriously burden the Examiner.

The Examiner further asserts that the claims of Invention III are materially different from the claims of groups I and II. The Applicants disagree with the Examiner's assertion in that the non-human transgenic animal and/or transgenic mouse with an eye abnormality and/or hyperactive behavior and a method of identifying an agent that ameliorates an eye abnormality or hyperactive behavior using the transgenic animal and the claims of Inventions I and II are related and would not require a separate search or examination that would seriously burden the Examiner.

The Examiner also asserts that the claims of Invention IV involve methods that are distinct from the claims of Inventions I-II. The Applicants disagree with the Examiner's assertion in that the methods of identifying agents that modulate an eye abnormality of Invention IV and the claims of Inventions I-II are related and would not require a separate search or examination that would seriously burden the Examiner. The Examiner further concludes that claims of Invention IV are distinct from the methods of Invention III. The Applicants disagree with the Examiner's conclusion in that the methods of use of Invention IV and the methods of using the transgenic animal and/or transgenic mouse of Invention III are related and would not require a separate search or examination that would seriously burden the Examiner.

With respect to Inventions V (claims 16 and 41) and VI (claim 48), the Examiner contends that the agents of Inventions V and VI modulated different phenotypes and/or abnormalities and are thus, distinct from each other. Applicants assert that the claims of Inventions V and VI are related and that a search and examination of these claims can be made without serious burden on the Examiner.

Although Applicants have provisionally elected Group III for purposes of advancing prosecution of the present application, Applicants contend, for the foregoing reasons, that the restriction requirement is improper. Accordingly, Applicants respectfully request reconsideration and withdrawal of the requirement.

Applicants also submit concurrently herewith a Petition for the Extension of Time for response to the Office Action for a period of one month from January 28, 2002 up to and including February 28, 2002.

Respectfully submitted,

Date: 01/29/02

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